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## United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

WASHINGTON, DC 20510-6350

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March 4, 2026

The Honorable Kelly Loeffler  
Administrator  
U.S. Small Business Administration  
409 3rd Street, SW  
Washington, DC 20416

The Honorable Jamieson Greer  
Ambassador  
U.S. Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20006

The Honorable Paul S. Atkins  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

Mr. Stephen Miran  
Chair  
Council of Economic Advisers  
1650 Pennsylvania Avenue, NW  
Washington, DC 20500

The Honorable Howard Lutnick  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20230

The Honorable Kristi Noem  
Secretary  
U.S. Department of Homeland Security  
2801 Nebraska Avenue NW  
Washington, DC 20528

The Honorable Rodney S. Scott  
Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue NW  
Washington, DC 20229

Dear Administrator Loeffler, Secretary Lutnick, Ambassador Greer, Secretary Noem, Chairman Atkins, Commissioner Scott, and Chair Miran,

Last August, anticipating the Supreme Court's rejecting President Trump's unlawful tariffs, I called upon you to immediately establish and publicize procedures for refunding to small businesses the money they would be owed. You failed to do so, and now that the Court has firmly rejected the President's tariff scheme, those businesses and their customers are left waiting for relief. At the same time, investment banks are profiteering from the delay, offering cash-strapped businesses pennies on the dollar to buy up their tariff refund rights. Delaying the refunds owed is a prescription for more pain inflicted on U.S. companies and their customers. I therefore again urge you to establish a simple and free tariff-refund processing system that

prioritizes claims by small businesses, and to investigate and crack down on those who would seek to profit at their expense from the unnecessary delay in issuing refunds.

Last week, by a 6-3 vote, the Supreme Court firmly ruled that the President lacked the authority to impose tariffs under the International Emergency Economic Powers Act (IEEPA).<sup>1</sup> The Court's ruling was predictable, coming on the heels of the D.C. District Court, the U.S. Court of International Trade, and the U.S. Court of Appeals for the Federal Circuit all rejecting the legal basis for the President's imposition of tariffs under IEEPA.<sup>2</sup> The president's own lawyers argued to the Federal Circuit that, if the Administration were to lose, businesses that paid tariffs imposed unlawfully under IEEPA would be entitled to refunds,<sup>3</sup> and subsequently reiterated the promise to refund unlawfully collected duties, with interest, after the Court of International Trade ruled against them in May of 2025.<sup>4</sup>

Now, however, President Trump is backtracking on the promise to refund money unlawfully collected from U.S. businesses, suggesting the issue "has to get litigated for the next two years."<sup>5</sup> Accordingly, Administration lawyers have begun dragging their heels by asking the Court of Appeals for the Federal Circuit to remand the case to the Court of International Trade in June.<sup>6</sup> Beyond dragging the repayment process out further, this delay would also impose billions of dollars in interest payments on the refunds which American taxpayers would be forced to pay.

Large businesses, such as Federal Express, have already sued the federal government for refunds on tariff costs,<sup>7</sup> but this approach is too time-consuming and cost-prohibitive for small businesses. We, as a nation, cannot afford our cost crisis to endlessly drag on. Secretary Noem and Commissioner Scott, there are solutions readily available. For example, the U.S. Customs Automated Commercial Environment (ACE), which is part of U.S. Customs and Border

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<sup>1</sup> *Learning Resources, Inc. v. Trump*, 607 U.S. \_\_\_\_ (2026).

<sup>2</sup> Doug Palmer, Kyle Cheney & Josh Gerstein, *Federal court strikes down Trump's tariffs on countries around the world*, Politico (May 28, 2025), <https://www.politico.com/news/2025/05/28/federal-court-strikes-down-trumps-april-2-tariffs-00373843>; Doug Palmer & Kyle Cheney, *Second federal court rules against Trump's tariffs*, Politico (May 29, 2025), <https://www.politico.com/news/2025/05/29/second-federal-court-rules-against-trumps-tariffs-00374377>; Dietrich Knauth, Nate Raymond & Tom Hals, *Most Trump tariffs are not legal, US appeals court rules*, Reuters (Aug. 29, 2025), <https://www.reuters.com/legal/government/most-trump-tariffs-are-not-legal-us-appeals-court-rules-2025-08-30/>.

<sup>3</sup> Reply brief for Appellants at 30, 33, *V.O.S. Selections, Inc. et al. v. Trump*, Nos. 2025-1812, -1813, U.S. Court of Appeals for the Federal Circuit (July 18, 2025), <https://storage.courtlistener.com/recap/gov.uscourts.cafc.23105/gov.uscourts.cafc.23105.147.0.pdf>.

<sup>4</sup> Ari Hawkins, *White House faces thousands of lawsuits as it tries to slow-walk tariff refunds*, Politico (March 3, 2026), <https://www.politico.com/news/2026/03/02/businesses-ready-battle-white-house-tariff-refunds-00808048>.

<sup>5</sup> Megan Messerly and Daniel Desrochers, *Trump's next tariff fight: Keeping the money*, Politico (Feb. 26, 2026), <https://www.politico.com/news/2026/02/26/trumps-next-tariff-fight-keeping-the-money-00799774>.

<sup>6</sup> Scott Lincicome, Nathan Miller, and Alfredo Carrillo Obregon, *Tariff Refund Delays Could Cost Taxpayers \$700 Million a Month*, Cato Institute (March 2, 2026), [Tariff Refund Delays Could Cost Taxpayers \\$700 Million a Month | Cato at Liberty Blog](https://www.cato.org/blog/tariff-refund-delays-could-cost-taxpayers-700-million-a-month).

<sup>7</sup> Dan Mangan, *FedEx sues for refund of Trump tariffs, days after Supreme Court ruling*, CNBC (Feb. 24, 2026), <https://www.cnbc.com/2026/02/23/fedex-trump-trade-tariffs-refunds-supreme-court-lawsuit.html>.

Protection, initially collected the tariffs and could be repurposed to automatically distribute refunds. I implore you to move with the speed this hardship for our nation's small businesses deserves, and to find and implement a workable solution.

Predictably, where consumers and Main Street suffer, Wall Street sees a potential financial windfall. According to the *Wall Street Journal*, investment banks are offering businesses between 20 to 40 cents on the dollar to buy up tariff refund rights.<sup>8</sup> Over time, small businesses will be disproportionately tempted to take Wall Street up on these offers. Large businesses can afford the massive legal fees associated with years-long cases before the Court of International Trade; small businesses cannot.

Chairman Atkins, I ask that you immediately review this profiteering by Wall Street firms, and, where applicable, redistribute any ill-gotten gains back to the small businesses who paid the illegal tariffs in the first place. Main Street had no choice but to comply with the President Trump's tariff scheme. It is unconscionable that, as soon as the Supreme Court ruled the tariffs unlawful, investment banks swooped in to exploit the Administration's foot-dragging in complying with the law. The Trump administration's dithering on tariff refunds is siphoning the hard-won earnings of American small businesses into Wall Street coffers while keeping prices for consumers elevated. This has to stop.

When I wrote to you last August, I warned that your failure to prepare to pay refunds "would go down as a historic act of executive malpractice, making what would already be a major, economy-wide disruption exponentially worse."<sup>9</sup> This is now the reality we face. You must act with the utmost urgency to refund America's small businesses, and help lower consumer prices, rather than allow big banks to prey on Main Street.

Sincerely,



Edward J. Markey

Ranking Member, Committee on Small  
Business and Entrepreneurship

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<sup>8</sup> Caitlin McCabe, *Wall Street Traders Are Pouncing on the Tariff Refund Chaos*, Wall St. J. (Feb. 25, 2026), [https://www.wsj.com/finance/wall-street-traders-are-pouncing-on-the-tariff-refund-chaos-d0144703?st=T1trqz&reflink=article\\_email\\_share](https://www.wsj.com/finance/wall-street-traders-are-pouncing-on-the-tariff-refund-chaos-d0144703?st=T1trqz&reflink=article_email_share).

<sup>9</sup> Press Release, U.S. Senate Committee on Small Business and Entrepreneurship, Ranking Member Markey Calls on Trump Administration to Prepare Tariff Refund Plan for Small Businesses (Aug. 21, 2025), <https://www.sbc.senate.gov/public/index.cfm/2025/8/ranking-member-markey-calls-on-trump-administration-to-prepare-tariff-refund-plan-for-small-businesses>.